

1906-025
Lee Co.

Chancery Causes: Andrew J. Ely vs. Eda Ely

Belcher, Collins, Hall

CA-Divorce
T-Vices

To the Hon. N. A. W. Keen, Judge of the Circuit Court of Lee County, Virginia.

Humbly complaining, your orator, Audum J. Ely of the County of Lee and State of Virginia sheweth to the court that he is now, and has been for more than one year next preceding the institution of this suit, a citizen of the State of Virginia.

Your orator further shews that - on the 14 day of Nov 1904 at Esq. Bill Rice's in ~~the~~ ^{Harlan County, Ky.} ~~the~~ ~~of~~ ~~the~~ ~~County~~ ~~and~~ ~~State~~, your orator was duly and legally married to Ida Ely (ne Ida Beebe) and that your orator and said defendant lived and co-habited together as man and wife until the day of April 1906. when said plaintiff and defendant separated and have not co-habited together since.

And your orator further shews that he has been informed, and truly believes and therefore charges the truth to be that this defendant, disregarding the solemnity of the marriage vow, hath since said marriage committed adultery with different persons, whose names are at present unknown to your orator, and that - on or about the - day of 1906 at said Plaintiffs dwelling house on Mr. Gills place this defendant committed adultery with another person whose name and identity, your orator has been unable to

determine.

Your orator further shows that this defendant is at present residing on Blackwater in this county; that your orator has not lived or co-habited with the said defendant since this; his adultery was made known to him, and your orator positively avers that the acts done and the cause for divorce charged in this bill, for which divorce is sought, were committed without the consent, connivance, privity or procurement of your orator and that this bill is not founded on or exhibited in consequence of any collusion between your orator and said defendant, or any other person.

Your orator therefore prays that proper process may issue and that a decree of this court be granted for the dissolving the bonds of matrimony heretofore contracted and now existing between your orator and said defendant and for such other relief as may be necessary, and he will ever pray &c.

Andrew J. Elz

by

counsel

Costs:

Clerk \$4.11

Tax 1.50

Shff. 1.00

Atty. 15.00

Comm. 1.50

\$23.11

Andrew J. Ely

vs. bill

Jdu Ely

Filed Aug. 21, 1906.

H. C. P. Ewing, clk.

1906 2nd Aug. Rules

Bill filed Sp.
not executed and
alias awarded

" 1st Sept. Rules

Alias Sp. execu-
ted & D. H.

" 2nd Sept. Rules

~~D. H. confirmed~~
Cause set for hear-
ing by plaintiff

1900 to 10

Andrew J. Ely /
vs
Ida Ely } Divorce

This cause came on this day to be heard on the bill, the exhibits filed, and the deposition of witnesses, and was argued by counsel for the plaintiff. On consideration whereof, the court bring of the opinion that the charge of adultery against the defendant is fully proved, with adjudge, order and decree the marriage heretofore between Andrew J. Ely and Ida Ely be, and the same is, hereby dissolved, & the said Andrew J. Ely forever divorced from his wife, the said Ida Ely. And this cause is ordered to be stricken from the docket.

A. J. Ely
12

Ida Ely

Deer

~~11~~

Entered in C.O.B.
#8, page 195

H. A. W. S. I. W.
Enter this
Sept 17th 1906

The depositions of Peter Collins,

taken before the undersigned Commissioner in chancery, at the law office of J. W. Orr in Jamesville Va. on the 8th day of September 1906, between the hours of 8 A. M. and 4 P. M. ^{except to the notice hereto attached} to be read as evidence on behalf of A. J. Ely in a certain suit in chancery in which said A. J. Ely is plaintiff and Ida Ely is defendant.

Present - W. K. Hopkins, atty for Plaintiff.
Va. one for Defendant.

The said Peter Collins a witness of lawful age and being duly sworn deposes & says.
Q 1 What is your age, residence and occupation.

Ans. 26 yrs. Remington Gap Va. Laborer.

Ques 2 Are you acquainted with A. J. Ely, the plaintiff in this suit, and Ida Ely his wife, if so, how long have you known them and where does the plaintiff live.

Ans. I am acquainted with both of them, have known A. J. Ely six years and his wife, Ida, about two years or more. The plaintiff lives in this State and has for several years,

Ques 3 Where did the plaintiff and his wife reside during the winter of 1905-1906?

Ans. on Marion Gillys farm, S. E. of Remington Gap.

Ques 4 Please state any thing you may know, ~~if any thing~~, regarding the defendants conduct when she so lived ^{there} regarding her conduct for chastity and decency.

Ans.

I went down to their house one day to see the plaintiff on some business. I went to the door and looked in and saw the defendant and a young man by the name of Barnett, as I took it to be, on the bed together. They were having sexual intercourse. He ran out at the back door, and she sat up on the side of the bed, and said Drew, meaning the plaintiff, had gone to his mother's. I then left. Somewhat about this date I saw her and one James Wilks going about together, saw them at one time sitting together on the Rail Road track near the Iron bridge East of Pennington Gap.

Ques 5 Please state, if you know, where ~~the~~ the plaintiff has lived, or cohabited with the said Ida since he was informed of the aforesaid conduct, and where the defendant now lives, if you know.

Ans.

I informed the plaintiff what I had seen, some time in April last, and he has not lived or cohabited with his said wife since, that I

know of or have heard of, and she left the neighborhood soon after I informed him and has lived an Blackwater in this County since then.

Ques 6 Do you know, or have you heard of any collusion or agreement between the plaintiff or defendant to obtain a divorce, or do you know of any thing this plaintiff done to bring about this conduct by his wife.

Ans. I know of nothing of the kind, whatever, and am satisfied that her adulterous conduct was without his consent or connivance.

And further this deponent saith not.
A. A. Pete Collins.

A. Hall another witness of lawful age and being duly sworn deposes and says.

Ques 1 What is your age, residence and occupation?

Ans. 29 years, Norton now, did live at Remington Gap Va. Working as a Cake yard.

Ques 2 Are you acquainted with A. J. Ely, the plaintiff and Ida, his wife, if so, where do they live and how long have they so lived

Ans. I am acquainted with both, have known him about 11 years & her about 8 years.

(over)

She lives now on Blackwater in this County & he lives at Pennington Gap Va. He was raised near there and has lived there ever since I knew ^{him} except a trip or two west some few years ago.

Ques 3 Do you know of any misconduct on the part of his wife, if so please state what it was and when it was.

Ans. As near as I can now remember. I was going one day to Mr Wm Gilley's, on North Fork near Pennington Gap, along about March but I saw her standing on one side of the fence and some young man, I did not know, standing on the other side. When I came in sight he had hold of her hands across the fence, I passed along ^{near} by them, and he let go her hands as I passed, and after I passed them I looked back and he had hold of one of her hands again. I knew her and she looked a little embarrassed as I passed.

Ques 4 Please state, if you know, of any other indecent conduct on the part of said defendant, and when and where it was.

Ans. Since, or after the above occurrence, and as I now remember, about the last of March 1906. I had been at the old David Smith place

and came on back through the woods, and I saw the glimpse of a man behind a log in the woods, after I crossed over the log behind which he was, I saw a woman. She was laying or reclining on the ground near him, and when she saw me she jumped up and commenced picking up wood.

The man was the same man I saw at the fence holding defendant's hands and the woman was the defendant & the same woman that was at the fence.

Ques. 5. Was this illicit conduct you speak of brought about with the knowledge, or consent of the plaintiff.

Ans. I am satisfied it was not.

And further this defendant saith not.

J. H. Hall
marks

The foregoing depositions of Pete Collins & J. H. Hall were taken subscribed and sworn to before me at the time and place and for the purposes in the caption mentioned. Given under my hand this the 8th day of September 1906.

James H. Orr, Commissioner
in Chancery for Circuit Court
of Lee County Virginia.

Andrew J. Ely.

vs } Defiant

Elder Ely.

Filed Sept 10th 1906.

H. C. J. Ewing.
Clerk.

Notice to take Depositions.

[Code §§3359-68; 4 Min Inst. (2ed.), 745 & seq.; 2 Dart Chy. Prac. (2ed.), p 783 & seq.; Hurst's Guide & Manual, p. 16 & seq.]

To Ida Ely

Take notice, that I shall, on the 8, day of September, 1906, at
the Law Office of J. M. Orr
in Jonesville Va., between the hours of 8, A. M., and
4, P. M., on that day, proceed to take the depositions of Peter Cochran & others
and others, to be read in the evidence in my behalf, in a certain suit in equity depending in
the Circuit court for the county of Lee wherein you are
Defendant and I am Plaintiff.

and, if, from any cause, the taking of the said depositions be not commenced on that day, or, if
commenced, be not concluded on that day, the taken of the same will be adjourned and continued
from day to day, or from time to time, at the same place and between the same hours, until the
same shall be completed.

Respectfully yours,

I. J. Ely

executed on the
27. day aug. 1906
by Delivered a
true copy of
the within to
Ada Sly
J. J. Hughes D.D.
J. M. Ball
L. L. C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

again
WE COMMAND YOU,

That you summon

Ida Ely

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the *1st* Monday in *September*, 190*6*, to answer a bill in chancery exhibited against *her*

by A. J. Ely.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *23rd* day of *August*, 190*6* and 1*31st* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

_____, Clerk.

A. J. Ely

VS

SUBPOENA
IN
CHANCERY.

I da Ely.

W. K. Hopkins p. q

To 1st September 1906 Rules.

Lee Circuit Court.

1906
executed by
delivering a true
copy of the within
to A. J. Ely
this aug. 27. 1906
J. F. Hughes D.D.
for P. M. Ball

The Commonwealth of Virginia,

To the Skeriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

Ida Ely

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the *2nd* Monday in *August*, 190*6*, to answer a bill in chancery exhibited against *her*

by A. J. Ely.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *9th* day of *August*, 190*6*, and 1*31* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

H. C. T. Ewing, Clerk.

VS

}

SUBPŒNA
IN
CHANCERY.

-----p. q

To

-----Rules.

-----Court.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

Ida Ely

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the *2nd* Monday in *August*, 190*6*, to answer a bill in chancery exhibited against *her*

by A. J. V. Ely.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *9th* day of *August*, 190*6*, and 1*31*-----year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

-----, Clerk.